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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

NATIONAL WILDLIFE FEDERATION,
et al.,

Plaintiffs,

and

STATE OF OREGON, et al.,

Intervenor-Plaintiffs,

v.

NATIONAL MARINE FISHERIES
SERVICE, et al.,

Defendants,

and

PUBLIC POWER COUNCIL, et al.,

Intervenor-Defendants.

Case No. 3:01-cv-640-SI

PROGRESS REPORT RE: LITIGATION
STAY

In the Joint Motion to Extend the Litigation Stay, the Moving Parties indicated they would “file with the Court and serve on the parties and amicus a progress report of steps and actions taken during the” process led by the Federal Mediation and Conciliation Service (FMCS). ECF 2423 ¶ 5. Attachment 1 contains a progress report prepared by FMCS on recent actions and steps taken in the process.

The Plaintiffs wish to emphasize that substantial progress will need to occur within the next month, given the rapidly approaching December Commitment deadlines.

DATED November 2, 2022

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CERTIFICATE OF SERVICE

I certify that on November 2, 2022, I filed the foregoing through the Court's CM-ECF system, which will automatically notify counsel of record. I also caused the foregoing to be manually sent to following:

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/s/ Michael R. Eitel
MICHAEL R. EITEL
U.S. Department of Justice

ATTACHMENT 1



FMCS | FEDERAL MEDIATION & CONCILIATION SERVICE

FMCS Process Update Summary

November 2nd, 2022

FMCS believes its process is moving as anticipated and that the parties are endeavoring to achieve the milestones identified in Exhibit 2 of the Stay Agreement that was communicated on August 3, 2022, and approved by the Court on August 4, 2022, and are dedicating the necessary time and resources to that end.

FMCS has consulted with Sovereigns, States, the United States Government, and Stakeholders to develop a process that is intended to be collaborative, inclusive, and transparent.

To address and move forward on each of the United States Commitments in Exhibit 2 of the Stay Agreement as well as the overarching guiding principles identified in the Stay Agreement, the following has transpired:

- **August 15, 2022:** FMCS distributed a short-term funding data call to facilitate the United States Government's implementation of the United States Commitments in Exhibit 2.
- **August 31, 2022:** the responses to the short-term funding request data call were sent to the United States Government for review.
- **August and early September 2022:** FMCS established working groups inclusive of the commitments in Exhibit 2 in collaboration with the parties. In addition, the United States Government developed both a policy and negotiating team.
- **September 21, 2022:** FMCS convened a virtual plenary inclusive of all parties to kick off the process. During this meeting, parties were informed they could voluntarily sign up for working groups that they may have a stake in.
- **September 21, 2022:** FMCS convened a meeting with the Defendant Intervenor Stakeholders.
- **September 23, 2022:** FMCS convened a meeting with the Plaintiffs and Plaintiff Intervenor.
- **September 30, 2022:** the NOAA Salmon Rebuilding Report was finalized and released. This accomplished the milestone deadline for this commitment in Exhibit 2.
- **October 7, 2022:** the initial meetings were held for working group 1 and 3.

- **October 21, 2022:** FMCS convened a meeting with Sovereigns, Plaintiffs, and the United States Government on proposed changes to the 2022 spill operations based on lessons learned.
- **October 26, 2022:** FMCS convened a technical discussion meeting on operational adjustments with technical staff from Oregon, the Nez Perce Tribe, and the United States Government.
- In addition to the above actions, monthly Sovereign only and Litigant only meetings have been established. The initial Sovereign meeting was held on October 11, 2022, and the initial Litigant meeting was held on October 25, 2022. Virtual meeting invitations have been sent to the respective participants for each meeting for the duration of the Stay Agreement. These meetings are for obtaining input and to update all parties in the respective meeting.
- Established weekly sync meetings with the United States Government to obtain updates on what the Government teams have been working on that week and develop next steps to move towards achieving the commitment deadlines.
- FMCS created a document repository in SharePoint with individual folders that each entity identified persons to have access to. These are used for individual groups to store their working documents during the mediation process.
The SharePoint site houses a calendar of meetings that all parties have access to for transparency and inclusion.

Respectfully submitted by the FMCS Process Team.

Commissioner Cynthia Jeffries, Team Lead

Commissioner Matthew Philibeck

Commissioner Rozmyn Miller

Commissioner Brenda D. Pryor